

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

07 CV 6796

JUDGE PRESKA

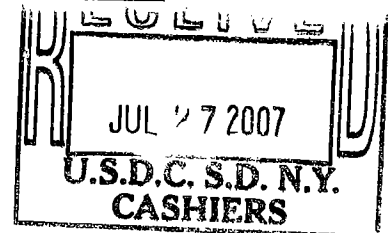
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Mumtaz KHAN
(Immigration File #A076 103 793),
Petitioner

-against-

**U.S. CITIZENSHIP & IMMIGRATION
SERVICE, OFFICE OF U.S. ATTORNEY,
NEW YORK DISTRICT, U.S. ATTORNEY
GENERAL, FEDERAL BUREAU OF
INVESTIGATION**

Respondents
-----x

**COMPLAINT FOR
MANDAMUS**



Petitioner Mumtaz Khan, by his attorney Rakhel Speyer Milstein, respectfully shows to this Court and alleges the following:

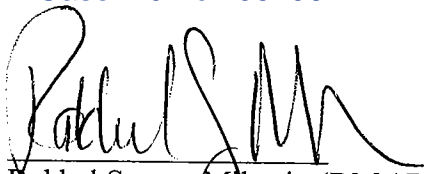
1. Whereas the United States District Court for the Southern District of New York has jurisdiction of this complaint under the provisions of Title 5 U.S.C. §§ 701-706; Title 8 U.S.C §§ 1329, 1447; Title 28 U.S.C §§ 1331, 1361.
2. This is an action for mandamus compelling the U.S. Citizenship and Immigration Service to adjudicate Petitioner's application for naturalization in accordance with 8 C.F.R. § 335.
3. The federal judiciary's authority to consider whether immigration policies and procedures violate constitutional rights and protections is found in U.S. Const. art. I, § 8, cl. 4. In addition, the United States Supreme Court has stated that district courts have jurisdiction to render equitable relief for constitutional, statutory, and procedural challenges concerning immigration matters. *McNary v. Haitian Refugee Center, Inc.*, 498 U.S. 479, 484, 494 (1991).
4. Venue is proper in this court, pursuant to 28 U.S.C. § 1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the district where Petitioner resides. No real property is involved in this action.
5. The Petitioner, Mumtaz Khan, resides in the State of New York within the jurisdiction of the United States District Court for the Southern District of New York.

6. Respondents are the U.S. Department of Homeland Security – U.S. Citizenship and Immigration Services (“USCIS”) located at 26 Federal Plaza, New York, NY 10278; the U.S. Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001; the Federal Bureau of Investigation J. Edgar Hoover Building, 935 Pennsylvania Avenue, NW, Washington, DC 20535-0001; and the Office of the U.S. Attorney in the Southern District of New York, 86 Chambers Street, 3rd Fl., New York, NY 10007.
7. Petitioner is a legal permanent resident of the United States residing at 337 West 43rd Street, Apt. 6B, New York, NY 10036 (Immigration File #A076 103 793).
8. Petitioner has been a permanent resident since August 8, 2000. (*See Exhibit A*).
9. Petitioner filed his N-400 Application for Naturalization pursuant to 8 U.S.C. §1429 et sequitor on September 6, 2005. (*See Exhibit B*).
10. Petitioner received notice of his Naturalization Interview on October 12, 2005, scheduled for February 1, 2006. (*See Exhibit C*).
11. Petitioner received notification that his Naturalization Interview was cancelled for “unforeseen circumstances” on January 5, 2006. (*See Exhibit D*).
12. More than eighteen months have passed since Petitioner’s Naturalization Interview was cancelled.
13. Accordingly, Respondents have neglected to adjudicate Petitioner’s Naturalization Application in a timely manner, thereby denying Petitioner his right to become a naturalized citizen of the United States.
14. Petitioner has experienced harm and anxiety as a result of the delay in his naturalization application.

WHEREFORE, Petitioner, Mumtaz Khan, pray that:

- (a) The Court compel the USCIS or the FBI to complete adjudication of Petitioner’s Naturalization Application.
- (b) The Court award reasonable attorney’s fees pursuant to the Equal Access to Justice Act; and
- (c) Any other and further relief as this Court may deem appropriate in the interest of Justice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rakhel Speyer Milstein', written over a horizontal line.

Rakhel Speyer Milstein (RM 1709)
Assadi & Marks, LLP
Attorney for Plaintiff
200 West 57th Street, Suite 900
New York, New York 10019

Dated: July 25, 2007